

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE CARLOTZ, INC. SECURITIES
LITIGATION

21-CV-5906 (AS)

ORDER


ARUN SUBRAMANIAN, United States District Judge:

At the hearing set for Thursday, March 7, 2024, the parties should be prepared to address the following issues:

1. What ramifications, if any, *Menora Mivtachim Insurance Ltd. v. Frutarom Industries Ltd.*, 54 F.4th 82 (2d Cir. 2022), has for scheme-liability claims under Rule 10b-5(a) and (c), and any caselaw either supporting or rejecting *Frutarom*'s application in this context;
2. Whether the complaint sufficiently alleges a claim for scheme liability. This includes whether the alleged dissemination of previously-made statements, including in securities filings, can either alone or in conjunction with other factors, constitute an actionable violation of the scheme-liability provisions. The parties should have citations to relevant cases either supporting or rejecting potential liability under the circumstances presented here; and
3. Whether and in what filing Plaintiffs "abandoned" their scheme-liability claims, as Defendants suggest in their briefing.

SO ORDERED.

Dated: March 5, 2024
New York, New York



ARUN SUBRAMANIAN
United States District Judge